

Victorian Co-operative News

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Victorian co-operatives legislation delayed

The Victorian Attorney-General has delayed the introduction of a new co-operatives bill into State Parliament until outstanding issues related to co-operatives trading with interstate members are resolved.

In February, discussions were held between the National Co-operatives Council and Interstate Registrars on issues that need to be addressed if co-operatives are to trade interstate without being subject to the Corporations Law.

At its March meeting, the board of the Co-operative Federation of Victoria resolved that legislative amendments should address the following issues:

- cross border amalgamations;
- cross border transfer of engagements;
- similar provisions for membership and security issues in connection with membership which recognises the uniqueness of co-operatives;
- carrying on business across State borders;
- co-operatives to comply with legislation in

home State only.

The same resolution is being considered by other State federations with the aim of presenting a united co-operative response to proposals put forward by the Standing Committee of Attorneys-General working party on interstate trade.

The board of the Federation is aware of the urgency for a new act for Victorian co-operatives, and is pressing for an early resolution of outstanding issues so that a new act can be finalised before the end of

The Co-operative - Corporations Law Interface

At present, co-operatives are exempt from the Corporations Law if they operate within their own State. For co-operatives to be able to effectively trade with members interstate, there requires an agreement between the states and the Commonwealth to amend the Corporations Law.

Jenni Mattila of Tress Cocks and Maddox explains the Co-operative - Corporations Law interface.

The philosophy of the law of Co-operatives and Companies is quite different. In a co-operative the members are the shareholders and benefit through their membership and the services and functions the co-operative provides. The benefit in being a shareholder in a company relates to the dividends paid on shares and any capital gain on the price of the share when the share is sold.

The emphasis of co-operative law is on the relationship with members, whereas the emphasis of the Corporations Law is the disclosure of all relevant information to proposed shareholders to allow them to make an informed decision.

In a co-operative, the members are assumed to have a high level of knowledge about its financial and business affairs. Like a company the co-operative may be large or small.

The standard and quality of the information provided to members is not expected to vary.

A proposed co-operative provides prospective members with a formation statement and rules.

Basic information is provided when a co-operative issues shares to new members or raises funds by way of debentures and deposits. At present co-operatives legislation does not distinguish between members and non members who merely wish to invest.

The Corporations Law requires investors to be provided with a prospectus that contains "*all such information as investors and their professional advisers would reasonably expect to find in the prospectus for the purpose of making an informed assessment of:*

- 1 *the assets, liabilities financial position, profits and losses, and the prospects of the corporation; and*
- 2 *the rights attaching to the securities (shares and debentures)."*

This approach is further supported by the Trade Practices Act which relates to misleading and deceptive statements and conduct. This includes statements that are misleading because relevant information is not provided.

The types of issues that will be necessary to address in legislative amendments if co-operatives are to trade interstate without being subject to Corporations Law are likely to be as follows:

- an appropriate level of disclosure of

information will need to be provided to members and prospective members when shares and debentures are issued;

- the need for consistent standards of regulation and supervision by each state and territory Registrar;
- consistent approach to prosecutions and penalties;
- appropriate investigations powers;
- common provisions on key areas of the law such as accounting standards.

(This is based on the assumption that the agreement between the states and the Commonwealth for the amendment of the Corporations Law will be similar to that resulting from the agreement relating to building societies and credit unions.)

It is reasonable to assume a better level of knowledge amongst co-operative members than that of their company shareholder counterparts in an organisation of a similar size.

However, it is difficult to argue that non-members should be given a lower level of information when investing in shares, debentures and deposits of a co-operative when their primary purpose for investing is the same as that of company shareholders.

In these circumstances it is probable that

(Continued on page 2)

inside...

Co-operative housing program under review
Developing directors of co-operatives
Co-operatives Unit On the Move

page 2
page 3
page 3

News in brief

New members

The Board of Directors welcomes the following new members of the Federation:

Co-operative Energy Ltd
Monash Co-operative Bookshop Ltd
Wombat Co-operative Ltd

New director

The Board of Directors has appointed Mr Bernie Harford, Chief Executive of Genetics Australia Co-operative Society Ltd, to fill the remaining vacancy on the board of the Federation.

Community co-ops seminar

The Federation is organising a seminar for community based co-operatives to be held in Melbourne on Friday 22 September, 1995. The seminar will cover the following topics:

Cooperative structures, the role of directors, board-management relationships, basic financial planning, training directors, staff and members, member communication and the role of the Victorian Government's Co-operatives Unit.

The seminar is primarily for committee members, staff and members of non profit co-operatives such as aboriginal, child care, health, housing, and community service.

Further details can be obtained on (053) 457466

Book donations

The Co-operatives Unit has donated books and reports it collected over the last 10 years to the Federation, because of their move to smaller premises in Flinders Street, Melbourne.

This follows the donation by R. Mathimugan of various International Co-operative Alliance publications.

The Board of the Federation appreciates the kind donations, and plans to make use of the material to further the Federation's objectives.

Unclaimed Monies Act

Attention is directed to the requirements of the *Unclaimed Monies Act 1962*, which provides that each March:

- Every Business (as defined in the Act) must record unclaimed monies in a register
- Every Business must advertise all entries of \$100 or more in the Government Gazette
- After a further 12 months, the balance of any unclaimed monies still held by a Business, and a register thereof, must be forwarded to the Registrar of Unclaimed Monies.

The Act applies to every business trading in Victoria.

Unclaimed monies are defined as: all principal and interest, dividends, salaries and wages, unrepresented cheques and all sums of money whatsoever, that have remained

Report from the board

Plunkett Foundation

The Board is pleased to announce that the Federation has become the agent for selling Plunkett Foundation publications in Australia.

The U.K. Plunkett Foundation is a central supplier of books on co-operatives, with over 100 titles produced by the Foundation and other publishers.

The publications for sale include:

- *Developing directors of co-operatives;*
- *Co-operative and Community Group Dynamics;*
- *Co-op - The People's Business;*
- *Co-operative Principles - Today & Tomorrow;*
- *Marketing For Co-operatives.*

A catalogue of titles will be available shortly.

Members of the Federation will receive a 10% discount on Plunkett Foundation publications, and 20% discount is available to organisations who offer to sell the publications on behalf of the Federation. Other publications will be sold at the Foundation's retail price.

Co-operatives legislation

In February, the secretary of the Federation, Tony Gill, attended a meeting

with other state federations and interstate registrars to discuss the issue of co-operatives trading with interstate members, and the Federation's submission on the NSW Co-operatives Act.

The meeting agreed to a common approach to the interstate issue (see report on page 1).

The Federation's submission caused debate on aspects of the NSW Co-operatives Act, with a number of recommendations being noted to warrant further consideration in NSW.

Government Grant

The Board has accepted with appreciation a Victorian Government grant of \$15,000 to assist the Federation in the implementation and continuance of its co-operative education and development program.

The funds will assist in defraying the costs of holding the forthcoming community co-operatives seminar, the purchase of Plunkett Foundation publications for sale to members and others, organising a co-operatives feature in the press and participating in national discussions on co-operatives legislation.

Before your current insurances fall due, talk to **Bruce Wickett of A'Asia Insurance Services**, the Federation's approved insurance broker.

Specialising in:

- *Directors and officers liability insurance*
- *Fidelity guarantee insurance*
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A'Asia Insurance Services (Vic) Pty Ltd
Suite 3/1051 High Street, Armadale, Victoria, 3143
Telephone: (03) 804 3833 Mobile: 018 058416 Fax: (03) 822 6311

Statutory forms

Co-operatives are required by law to keep and maintain certain registers, and to periodically submit forms to the **Registrar of Co-operatives**.

All registers, commonly used forms and advice on fees payable for lodging forms are now available from the Federation.

Victorian Co-operative News

Opinions expressed in the Victorian Co-operative News do not necessarily reflect those of the Co-operative Federation of Victoria Ltd.

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Co-operative housing program under review

The Victorian Rental Housing Co-operative Program is being reviewed following the release of the Victorian Government's *Community Housing Plan* in 1994.

The plan was developed in response to the Federal Government's Community Housing Program (CHP) initiative in its 1992-93 Budget.

The new program is seen as one means of increasing the range of housing choices available to low income people in Australia.

Under CHP guidelines, each state is required to prepare a Strategy Plan to provide strategic direction for the development of the CHP.

Rental housing co-operatives in Victoria are facing major changes in the way they operate as result of the Victorian plan.

At present, individual co-operatives lease State Government housing stock to sublet to low income co-operative tenants.

Both State and Federal Governments are anxious to promote the autonomy and independence of community housing.

This implies that ownership of community housing should belong with non-government organisations and that the community should take full responsibility for asset, property and tenancy management, according to Jean Evans, Chairperson of the RHC Project Management Committee.

"This new approach to community housing has generated considerable uncertainty and anxiety among rental housing co-operatives, particularly because it involves the transfer of title for houses from the public sector to the non government sector."

Consideration of such issues has been confused by a lack of clear policy and direction - the most notable is the absence of a financial framework under which new community housing organisations will operate Ms Evans said.

"Careful consideration by rental housing co-operatives of the implications of moving to community ownership will not be possible until the framework is developed and can be applied to co-operatives."

At the moment the Rental Housing Co-operative Program in conjunction with the State Office of Housing is about to embark on an extensive consultation to propose a model for the future management of rental housing co-operatives.

The consultants that have been selected by the Government for this task are Neville Barwick and Carole Hamilton, who have previously undertaken a study of the experiences of women and children in rental housing co-operatives.

The next 12 months should see significant changes within the Rental Housing Co-operative Program and should also see

the development of other strategies to create more tenant participation.

It is possible that the rental housing co-operative sector could bargain more effectively and in fact be better off as part of the new Community Housing Program, however, the sector needs lots of voices to achieve this, Ms Evans said.

"There is, at the moment, plans underway to set up a body called CATCH (Co-operative Alliance for Tenants of Community Housing) which would possibly take on the role of Advocacy and Resourcing for tenants of the Rental Housing Co-operative Program."

As there appears to be no forms of Government funding available for this type of organisation, progress will be hindered, she said. "The Steering Committee overseeing the development of CATCH will be required to seek out other forms of funding to cover administrative costs of the organisation."

Further information on the Rental Housing Co-operative Program, CATCH or the consultancy that is about to take place can be obtained from Jean Evans, Chairperson RHC Project Management Committee, PO Box 540 Belmont, 3216, telephone (052) 437833 or 787142.

Corporations Law interface

(Continued from page 1)

thought would need to be given to requiring the co-operative to issue a normal company style prospectus.

In conclusion, co-operatives should be re-evaluating the information they provide to their members and comparing it to the information provided by a company with a similar number of shareholders in relation to share and debenture issues.

Ideally information should be provided on a regular basis with an emphasis on keeping members informed of any changes in the financial status of the co-operative, major contracts, investments and changes in key personnel.

Whilst many small co-operatives think this may be unnecessary in many cases it is a good public relations exercise as well as good business sense. □

Rental housing co-operatives

Housing co-operatives first developed in the mid 19th century in Europe. They are now found in many countries around the world.

Housing co-operatives primarily have social objectives; affordability, security, non-discriminatory behaviour, maximising tenant control and links to tenant support services.

The first tenant of a rental housing co-operative association in Australia was housed in Melbourne in 1977.

One million dollars was provided by the Victorian Government for the purchase of houses to be leased by the association, with the management of the properties vested in the committee members of the association on behalf of the Housing Commission.

An evaluation found that tenants experienced high levels of housing satisfaction and the management was efficient and cost effective.

The Rental Housing Co-operative Program was established by the Ministry of Housing

to establish further housing co-operatives.

To-day, there are 21 rental housing co-operatives which manage 728 Government properties for low income people.

A typical co-operative has 35 tenant members supported by a housing worker, who assists the members in managing the co-operative and properties.

Rental housing co-operatives demand a high level of member participation compared to other types of co-operatives.

This has resulted in the increased esteem and skills of tenant members, and a practical knowledge of managing a co-operative.

Rental housing co-operatives are active in the Co-operative Federation of Victoria, with two directors (Jean Evans & Miriam Carlson) on the board, and the following members:

Chelsea Bayside Rental Housing Co-op
Eastern Suburbs Rental Housing Co-op
Footscray Rental Housing Co-operative
Moorabin Rental Housing Co-operative
Nth Geelong Rental Housing Co-operative

Developing directors of co-operatives

The Plunkett Foundation, with the financial assistance from the U.K. Department of Trade and Industry, has undertaken a study on developing directors of co-operatives. Part of the study focused on investigating competency based standards for directors. Outlined below are the conclusions of the study on minimum competencies for directors of co-operatives.

The directors of co-operatives are usually non-executive and elected, or at least selected, from among the membership. In this sense they may be described as amateurs, although they are required to act in a professional capacity, and they are often volunteers who may have accepted the post of director reluctantly.

Co-operative directors carry all the same legal responsibilities and risks shouldered by the directors of any other business.

As with other types of business, the scale of operations of a co-operative ranges from the very small to the large enterprise. This variation in size influences the way in which systems of corporate governance operate, as well as the way in which the director carries out his/her functions.

Many of the competencies necessary to successfully direct the affairs of any type of business are equally required to function effectively within a co-operative. However, for the co-operative director the presence of more traditional business skills is not in itself enough.

Without the additional competencies required, in terms of understanding the co-operative business model and possessing the related complementary skills, it is very unlikely that they will be able to function successfully.

The report, *Developing Directors of Co-operatives*, published by the Plunkett Foundation, can be obtained from the

Basic Competencies Required of All Co-operative Directors

All directors should be able demonstrate:

- an unequivocal understanding of the purpose and prime objectives of the co-operative which they serve as a director;
- an understanding of the structure of the market in which the co-operative operates, as well as the key factors which are critical to its survival;
- an awareness of their legal and functional responsibilities as a director of the co-operative;
- the personal skills required to function effectively in the board-room;
- the ability to comprehend the financial and control information necessary for the management of their co-operative including the key result areas and key result indicators for that business; and
- the ability to take an active role in the business planning process and in monitoring progress against such plans.

Additional Competencies Which Improve the Effectiveness of Co-operative Directors

- leadership and communication skills;
- an appreciation of the background and setting for the co-operative business activity; and
- an awareness of the latest developments and trends within the relevant business area.

Source: Developing Directors of Co-operatives, Plunkett Foundation, 1994

Co-operatives Unit *On the Move*

The Business Affairs section of the Department of Fair Trading and Business Affairs, which includes the Co-operatives Unit, have finally, after much anticipation and more than a few false alarms, moved to new premises.

The Office of Fair Trading and Business Affairs (OFTBA) is now under one roof and is located at **452 Flinders Street Melbourne** on the second floor.

The building is considered to be state of the art and is eminently more comfortable, both from a physical and aesthetic point of view, than the old building at 471 Little Bourke Street.

The Unit is now located directly opposite the site for the new permanent casino and the building is almost centrally located between Flinders Street and Spencer Street railway stations.

There is a plan to move the whole of the Department of Justice to the new premises in due course.

All Business Affairs customers and clients

are now directed through a public reception area where an electronic ticketing system is in operation, and provides for a fast and convenient service to the public. **The new enquiries telephone number is (03) 627 6570.**

New registrations seem to be reflecting a move toward trading and producer type co-operatives, with many arts and craft groups, and in some instances, incorporated associations making the move toward a co-operative structure.

An alpaca breeding co-operative is one of the most recent producer groups to apply for registration.

The current energy debate has certainly sparked an interest in the community and several enquires have been made into the registration of electricity and water co-operatives. It is expected that there will be other enquires as public interest increases. □

Strategic Planning Skills for Co-operative Boards

Is your co-operative's sense of purpose strong enough to give a clear direction for the year(s) ahead?

Are you confident that your product or service is today's product or service than yesterday's?

Join the Asia Pacific Co-operative Training Centre's Development Seminar for Directors

June 6-11, St.Kilda, Melbourne

Director and Management Development Skills

As the official training provider to the co-operative sector in Australia, the Asia Pacific Centre is happy to respond to co-operatives who have particular training needs or wish to combine with other co-operatives to mount training events.

Contact Tim Dyce to discuss your training needs. Tel: (02) 332 4596